

OPINION 759

SCELOPORUS TORQUATUS WIEGMANN, 1828 (REPTILIA):
VALIDATED UNDER THE PLENARY POWERS

RULING.—(1) Under the plenary powers the name *torquatus* Wiegmann, 1828, as published in the binomen *Sceloporus torquatus*, is not to be considered a permanently rejected name within the provisions of Art. 59b of the Code.

(2) The specific name *torquatus*, Wiegmann, 1828, as published in the binomen *Sceloporus torquatus*, is hereby placed on the Official List of Specific Names in Zoology with the Name Number 2108.

HISTORY OF THE CASE (Z.N.(S.) 1582)

The present case was submitted to the office of the Commission by Professor Hobart M. Smith in November 1962. Professor Smith's application was sent to the printer on 31 January 1963 and was published on 21 October 1963 in *Bull. zool. Nomencl.* 20 : 374-375. Public Notice of the possible use of the plenary powers was given in the same part of the *Bulletin* as well as to the other prescribed serial publications (Constitution Art. 12b; *Bull. zool. Nomencl.* 21 : 184) and to two herpetological serials. The application was supported by Dr. Carl L. Hubbs.

DECISION OF THE COMMISSION

On 3 June 1965 the Members of the Commission were invited to vote under the Three-Month Rule on Voting Paper (65)22 either for or against the proposals set out in *Bull. zool. Nomencl.* 20 : 374-375. At the close of the prescribed voting period on 3 September 1965 the state of the voting was as follows:

Affirmative votes—twenty-two (22) received in the following order: Mayr, Bonnet, China, Vokes, Binder, Simpson, Munroe, Sabrosky, Miller, Alvarado, do Amaral, Lemche, Uchida, Tortonese, Brinck, Obruchev, Forest, Boschma, Ride, Kraus, Mertens, Jaczewski.

Negative votes—two (2): Holthuis, Riley.

Voting Papers not returned—one (1) : Evans.

Commissioners Stoll and Hubbs returned late affirmative votes.

The following comments were made by Commissioners in returning their votes:

Dr. L. B. Holthuis (11.vi.65): "Since the two names have been used for this species, each rather uniformly during a certain period, I believe it to be in the interest of stability to stick to the nomenclaturally correct name. If we validate *torquatus* now and later authors place *Stellio torquatus* Wied, 1820 and *Sceloporus torquatus* Wiegmann, 1828, again in one genus the name *torquatus* Wiegmann would have to disappear for a third time.

"The granting of Dr. Smith's request under (a) to set aside Smith's 1936, rejection of *Sceloporus torquatus* Wiegmann, 1828, will not help this question either, since all subsequent authors who followed Smith in accepting the name *ferrariiperizi* did so by rejecting *torquatus*, if Smith's action is set aside, that of

all subsequent authors up to and inclusive of those publishing in 1960 should be set aside also.

"All this is so complicated that I believe it far more simple to adhere here strictly to the Rules."

Dr. A. H. Miller (22.vii.65): "Smith never should have set aside *Sceloporus torquatus* in the first place."

Dr. W. D. L. Ride (31.viii.65): "In recording this vote for the proposal, I approve its aim but I would ask that consideration should be given to the form of words in which the decision of the Commission will be framed as it applies to proposal (a).

"In my opinion the Commission should have been asked to set aside Article 59b as it applies to this case—not to set aside an action by Smith. To do the latter presupposes complete knowledge that no other author has taken the same action. Such other cases would not be covered by the application as it stands. I suggest that the decision of the Commission should be framed as though the proposal had requested the Commission: (a) to give an Opinion through the use of the plenary powers (Art. 78b (ii)) that the name *Sceloporus torquatus* Wiegmann, 1828, is not a permanently rejected name within the provisions of Article 59b (Secondary homonymy with *Stellio torquatus* Wied, 1820, as *Tropidurus*)."

The suggested wording of Dr. Ride has been adopted in the Ruling of the present Opinion.

ORIGINAL REFERENCE

The following is the original reference for the name placed on the Official List by the Ruling given in the present Opinion:

torquatus, *Sceloporus* Wiegmann, 1828, *Isis* (Oken) 1828 : 369

CERTIFICATE

We certify that the votes cast on Voting Paper (65)22 were cast as set out above, that the proposal contained in that Voting Paper has been duly adopted under the plenary powers, and that the decision so taken, being the decision of the International Commission is truly recorded in the present Opinion No. 759.

G. OWEN EVANS

Secretary

W. E. CHINA

Assistant Secretary

International Commission on Zoological Nomenclature

London

1 October 1965